

# **IMPACT FEE ORDINANCE**

Highland City, Utah

ORDINANCE NO. 2015-\*\*

## **ORDINANCE ADOPTING AN IMPACT FEE FACILITIES PLAN AND IMPACT FEE ANALYSES AND IMPOSING IMPACT FEES FOR TRANSPORTATION, CULINARY WATER, PRESSURIZED IRRIGATION, PARKS AND RECREATION, SANITARY SEWER, AND PUBLIC SAFETY; PROVIDING FOR THE CALCULATION AND COLLECTION OF SUCH FEES; PROVIDING FOR APPEAL, ACCOUNTING AND SEVERABILITY OF THE SAME, AND OTHER RELATED MATTERS**

**WHEREAS**, , Highland City, Utah (the “City”) posted notice of its intention to prepare impact fee facilities plans (“Impact Fee Facilities Plans”) and impact fee analyses (“Impact Fee Analyses”) for Transportation, , Pressurized Irrigation, Parks and Recreation, Sanitary Sewer, and Public Safety on February 12, 2014 and September 11, 2014 and Culinary Water on March 13, 2015 and invited all interested parties to participate in the impact fee preparation process, consistent with UCA Section 11-36a-501;

**WHEREAS**, Highland City is a municipality in the State of Utah, authorized and organized under the provisions of Utah law and is authorized pursuant to the Impact Fees Act, Utah Code Ann. 11-36a-101 et seq. to adopt impact fees; and

**WHEREAS**, on April 5, 2015, the City posted notice of a public hearing in the local paper, the Daily Herald, Utah’s Public Notice Website and on the City website to consider the assumptions and conclusions of the Impact Fee Facilities Plans, the Impact Fee Analyses, and the Impact Fee Ordinance;

**WHEREAS**, on April 9, 2015 the Impact Fee Facilities Plan Consultants have certified their work under UCA section 11-36a-306(1);

**WHEREAS**, on April 9, 2015, the Impact Fee Analysis Consultant certifies its work under UCA Section 11-36a-306(2);

**WHEREAS**, on April 9, 2015, a copy of the Impact Fee Analyses and Impact Fee Facilities Plans and the proposed Impact Fee Ordinance, along with a summary of the analyses that was designated to be understood by a lay person, were made available to the public and deposited at Highland City Hall, Highland Public Library, and the Highland Lone Peak Fire District Station and on the public notice website; and

**WHEREAS**, the Highland City Council (the “Council”) met in regular session on April 21, 2015, to convene a public hearing and to consider adopting the Impact Fee Facilities Plans, the Impact Fee Analyses, and the Impact Fee Ordinance, imposing updated Transportation,

Culinary Water, Pressurized Irrigation, Parks and Recreation, Sanitary Sewer, and Public Safety impact fees, providing for the calculation and collection of such fees, and providing for an appeal process, accounting and reporting method and other related matters; and

**WHEREAS**, on April 21, 2015 considering the input of the public and stakeholders and relying on the professional advice and certification of the Impact Fee Facilities Plan Consultants, Highland City adopted the findings, conclusions, and recommendations of the Impact Fee Analyses prepared by Zions Bank Public Finance (“Consultant”), a copy of which is attached hereto; and

**WHEREAS**, after careful consideration and review of the comments at the public hearing, the Council has determined that it is in the best interest of the health, safety and welfare of the inhabitants of Highland City to adopt the findings and recommendations of the Impact Fee Facilities Plans and Impact Fee Analyses to address the impacts of development upon the fire, police, transportation, culinary water, pressurized irrigation, parks and recreation, and sanitary sewer utilities, to adopt the Impact Fee Facilities Plans as proposed, to approve the Impact Fee Analyses as proposed, to adopt Transportation, Culinary Water, Pressurized Irrigation, Parks and Recreation, Sanitary Sewer, and Public Safety impact fees, to provide for the calculation and collection of such fees, and to provide for an appeal process, and an accounting and reporting method of the same.

**NOW, THEREFORE, BE IT ORDAINED** by the Highland City Council as follows:

**Section 1. Findings.** The Council finds and determines as follows:

1.1. All required notices have been given and made and public hearings conducted as requested by the Impact Fees Act with respect to the Impact Fee Facilities Plans, the Impact Fee Analyses, and this Impact Fee Ordinance (this “Ordinance”).

1.2. Growth and development activities in Highland City will create additional demands on its infrastructure. The facility improvement requirements which are analyzed in the Impact Fee Facilities Plans and the Impact Fee Analyses are the direct result of the additional facility needs caused by future development activities. The persons responsible for growth and development activities should pay a proportionate share of the costs of the facilities needed to serve the growth and development activity.

1.3. Impact fees are necessary to achieve an equitable allocation to the costs borne in the past and to be borne in the future, in comparison with the benefits already received and yet to be received.

1.4. In enacting and approving the Impact Fee Analyses and this Ordinance, the Council has taken into consideration, and in certain situations will consider on a case-by-case basis in the future, the future capital facilities and needs of Highland City, the capital financial

needs of Highland City which are the result of Highland City's future facilities' needs, the distribution of the burden of costs to different properties within Highland City based on the use of water, secondary, sewer, police/fire and park facilities of Highland City by such properties, the financial contribution of those properties and other properties similarly situated in Highland City at the time of computation of the required fee and prior to the enactment of this Ordinance, all revenue sources available to Highland City, and the impact on future facilities that will be required by growth and new development activities in Highland City.

1.5. The provisions of this Ordinance shall be liberally construed in order to carry out the purpose and intent of the Council in establishing the impact fee program.

## **Section 2. Definitions.**

2.1. Except as provided below, words and phrases that are defined in the Impact Fees Act shall have the same meaning in this Ordinance.

2.2. "Service Area" shall mean geographic areas designated within the City's boundaries as exhibited in the appendix of the Impact Fee Analyses.

2.3. "Project Improvement" does not mean system improvement and includes, but is not limited to, those projects identified in the plans for the benefit of growth.

2.4. "Utah State Impact Fees Act" shall mean Title 11, Chapter 36a, Utah Code Annotated or its successor state statute if that title and chapter is renumbered, recodified, or amended.

## **Section 3. Adoption.**

The Council hereby approves and adopts the Impact Fee Analyses, the Impact Fee Facilities Plans, corresponding fee schedules and the analyses reflected therein. The Impact Fee Facilities Plans and the Impact Fee Analyses are incorporated herein by reference and adopted as though fully set forth herein.

## **Section 4. Impact Fee Calculations.**

4.1. *Impact Fees.* The impact fees imposed by this Ordinance shall have two components; a future facilities impact fee as well as a buy in fee for excess capacity in existing facilities. The Impact Fee shall be calculated as set forth below.

4.2. *Developer Credits/Developer Reimbursements.* A developer, including a school district or charter school, may be allowed a credit against or proportionate reimbursement of impact fees if the developer dedicates land for a system improvement, builds and dedicates some or all of a system improvement, or dedicates a public facility that Highland City and the developer agree will reduce the need for a system improvement. A credit against impact fees shall be granted for any dedication of land for,

improvement to, or new construction of, any system improvements provided by the developer if the facilities are system improvements to the respective utilities, or are dedicated to the public and offset the need for an identified future improvement.

4.3. Adjustment of Fees. The Council may adjust either up (but not above the maximum allowable fee) or down the standard impact fees at the time the fee is charged in order to respond to an unusual circumstance in specific cases and to ensure that the fees are imposed fairly. The Council may adjust the amount of the fees to be imposed if the fee payer submits studies and data clearly showing that the payment of an adjusted impact fee is more consistent with the true impact being placed on the system.

4.4. Impact Fee Accounting. Highland City shall establish a separate interest-bearing ledger account for the cash impact fees collected pursuant to this Ordinance. Interest earned on such account shall be allocated to that account.

(a) Reporting. At the end of each fiscal year, Highland City shall prepare a report generally showing the source and amount of all monies collected, earned and received by the fund or account and of each expenditure from the fund or account. The report shall also identify impact fee revenues by the year in which they were received, the project from which the funds were collected, the capital projects from which the funds were budgeted, and the projected schedule for expenditure and be provided to the State Auditor on the appropriate form found on the State Auditor's Website.

(b) Impact Fee Expenditures. Funds collected pursuant to the impact fees shall be deposited in such account and only be used by the City to construct and upgrade the respective facilities to adequately service development activity or used as otherwise approved by law.

4.5. Refunds. The City shall refund any impact fee paid when:

(a) the fee payer has not proceeded with the development activity and has filed a written request with the Council for a refund within one year after the impact fee was paid;

(b) the fees have not been spent or encumbered within six years of the payment date; and

(c) no impact has resulted.

#### Section 5. Applicability to Fees Paid Prior to Enactment.

5.1. Any person who paid an impact fee prior to the enactment of this ordinance shall owe the fee in the amount that was then existing at the time of payment, and such fee shall not be affected by this ordinance. The City shall not refund any

difference between the fee paid prior to the enactment of this ordinance in cases where the fee has decreased hereunder; neither shall the City charge the difference in the event the fee has increased hereunder.

**Section 6. Appeal.**

6.1. Any person required to pay an impact fee who believes the fee does not meet the requirements of the law may file a written request for information with the City Council.

6.2. Within two weeks of the receipt of the request for information the City shall provide the person or entity with a copy of the reports and with any other relevant information relating to the impact fee.

6.3. Any person or entity required to pay an impact fee imposed under this article, who believes the fee does not meet the requirements of law may request and be granted a full administrative appeal of that grievance. An appeal shall be made to the Council within thirty (30) calendar days of the date of the action complained of, or the date when the complaining person reasonably should have become aware of the action.

6.4 The notice of the administrative appeal to the Council shall be filed and shall contain the following information:

1. The person's name, mailing address, and daytime telephone number;
2. A copy of the written request for information and a brief summary of the grounds for appeal;
3. The relief sought.

6.5 The City shall schedule the appeal before the Council no sooner than five (5) days and no later than fifteen (15) days from the date of the filing of the appeal. The written decision of the Council shall be made no later than thirty (30) days after the date the challenge to the fee is filed with the City and shall, when necessary, be forwarded to the appropriate officials for action.

This Ordinance shall be effective April 22, 2015.

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Mark Thompson, Mayor

ATTEST:

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Jody Bates, City Recorder